

Instructions: Notice of Voluntary Dismissal

This packet was prepared by the Justice & Diversity Center, a nonprofit organization, and is not an official court form.

Checklist

This packet provides a Notice of Voluntary Dismissal form and a Certificate of service. **It is also available in a fillable pdf version on the Court's website at www.cand.uscourts.gov/Legal-Help-Center-Templates.** This packet includes the following forms:

- **Notice of Voluntary Dismissal**
- **Certificate of Service**

General Instructions

A. The purpose of a Notice of Voluntary Dismissal is for the **plaintiff** to dismiss the lawsuit either as a whole, or as against any particular defendants.

B. **Timing.** Generally, a plaintiff has a right to file a Notice of Voluntary Dismissal at any time before the defendant serves either an answer or a motion for summary judgment. If the defendant you want to dismiss from the case has filed an answer or motion for summary judgment, you cannot use this form; you should seek legal advice.

C. **Whether you can re-file after dismissal.** This Notice of Voluntary Dismissal form states that the dismissal will be “without prejudice,” which generally means that the plaintiff may sue again on the same claim, if the time to do so has not passed. But if this is the second time that a plaintiff has attempted to sue on this claim (in state or federal court), filing this Notice will be considered a dismissal “with prejudice,” regardless of the language included in the form. “With prejudice” means the plaintiff cannot file another suit based on this claim. If you think you may want to re-file the case later, before dismissing, seek legal advice.

D. **Fill out each of the included forms COMPLETELY.** Suggestions are provided *[in brackets and italics that look like this]* to help you fill in the blanks. If a blank does not apply to you, write “not applicable.” **Be sure to sign and date each form.**

E. **Serving and Filing the Papers.** Make sure that a copy of all of the forms in this packet is served on the opposing party in one of the ways listed on the Certificate of Service. Have the person who served the motion papers fill out the Certificate of Service. You can do this yourself. Then, mail or hand-deliver the **original plus two copies** of the forms to the Clerk's Office at the court to which you are assigned. The Clerk will take the original and one copy. The other copy is for you to keep after it is stamped by the Clerk. If you file by mail, include a self-addressed, stamped envelope so that the Clerk can send a copy back to you.

More Information

This packet does NOT tell you everything you need to know about voluntary dismissals. **Before you file a Notice of Voluntary Dismissal**, we recommend that:

- If your case is in the San Francisco/Oakland federal courthouse, you make an appointment with the **Legal Help Center** for free legal information and advice by calling 415-782-8982 OR sign up at 450 Golden Gate Ave., S.F., 15th Floor, Room 2796 OR 1301 Clay Street, Oakland, 4th Floor, Room 470S.
- If your case is in San Jose, you make an appointment with the **Federal Pro Se Program** by calling (408) 297-1480 OR by signing up at 280 South First Street, S.J., Room 2070.

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Your Name: _____
Address: _____
Phone Number: _____
Fax Number: _____
E-mail Address: _____

Pro Se Plaintiff

United States District Court
Northern District of California

Plaintiff(s),
vs.
Defendant(s).

Case Number: _____

NOTICE OF VOLUNTARY DISMISSAL

TO THE HONORABLE COURT, ALL PARTIES HEREIN AND THEIR RESPECTIVE
COUNSEL OF RECORD:

I am the Plaintiff in this matter and I voluntarily dismiss this lawsuit pursuant to Federal
Rule of Civil Procedure 41(a)(1)(A)(i). Such dismissal shall be without prejudice, with each side
to bear its own costs and fees.

Date: _____ Sign Name: _____
Print Name: _____

CERTIFICATE OF SERVICE

Use this form to show that a paper or document (other than a complaint) was served (sent or delivered) to an opposing party in accordance with Federal Rule of Civil Procedure 5. A different form is needed to serve a complaint under Federal Rule of Civil Procedure 4.

Case name: _____

Case number: _____

What document was served? *(Write the full name or title of the document or documents, e.g., "Plaintiff's Opposition to Defendant's Motion for Summary Judgment.")*

Title(s): _____

How was the document served? *(Check one.)*

- ☐ Placed in U. S. Mail
☐ Sent by fax
☐ Hand-delivered
☐ Sent by delivery service (e.g., FedEx or UPS)

To whom was the document sent? *(Write the full name, address, and fax number of everyone who was sent the document. Usually, they will be the lawyers for the opposing parties.)*

When were the documents served? *(When were they mailed, faxed, or delivered?)*

Date: _____

Who served the documents? *(Whoever puts it into the mail, faxes, hand-deliveres, or sends by delivery service should print his/her name, address and sign. You can also do this yourself.)*

I declare under penalty of perjury under the laws of the United States of America that the information in this certificate of service is true and correct.

Signature: _____

Printed name: _____

Address: _____